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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 008,980	12 06 2001	Thomas H. Baum	260-CIP-DIV	5984

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ATMI, INC.
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DANBURY, CT 06810

EXAMINER

TALBOT, BRIAN K

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 02 13 2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/008,980

Applicant(s)

BAUM ET AL

Examiner

Brian K Talbot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 27-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-4, 7, 8, 13-22, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) 5, 6, 9-12, 23 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 4) ☐ Interview Summary (PTO-413) Paper No.:

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Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-26, drawn to a method of fabricating an iridium-based material, classified in class 427, subclass 90+.
- II. Claims 27-29, drawn to a microelectronic device, classified in class 428, subclass 209.
- III. Claim 32, drawn to a composition, classified in class 525, subclass varies.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed could be made by a different method such as by brush coating iridium based material on an insulating board. The process as claimed can be used to make a different product such as a decorative material.

Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are an electronic device and a composition.

inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced

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by another materially different composition, or (2) the composition as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the composition can be used to practice another and materially different process such as a process for forming a decorative article.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Oliver Zitzmann on 6/7/2002 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-26. Applicant in replying to this Office action must make affirmation of this election. Claims 27-32 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Specification

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Only method claims remain in the application.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5,9,11 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite a Lewis base, "L", however, fail to disclose what group the Lewis base "L" is selected from. The Examiner questions whether all Lewis Bases could be used and hence, the claim is broader than the enabling disclosure. The Examiner suggests reciting the Lewis bases (clams 6,10,12 and 24) in claims (5,9,11 and 23 respectively) to overcome the rejection.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,7,8,13-22,25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirlin et al. (5,840,897), Vaartstra (5,763,633) or Baum et al. (5,096,737).

Kirlin et al. (5,840,897), Vaartstra (5,763,633) or Baum et al. (5,096,737) all teach composition including metal complex source reagents having ligand complexes for manufacturing iridium coatings for producing microelectronic devices such as DRAM or FRAM capacitors. A chemical vapor deposition process is utilized in an oxygen atmosphere and the metal complex is decomposed to form the metal coating.

Allowable Subject Matter

10. Claims 5,6,9-12,23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the

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Reasons for Allowance

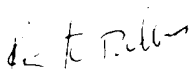
11. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach the specific compositions detailed in the noted claims.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K Talbot whose telephone number is (703) 305-3775. The examiner can normally be reached on Monday-Friday 6AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3775.


Brian K Talbot
Primary Examiner
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